IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8785 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? :

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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LALITKUMAR SAGARLAL THAKKAR

Versus

CHIEF REVENUE CONTROLLING AUTHORITY (STAMP)

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Appearance:

MR MB GANDHI for Petitioner

MR MI PANDYA AGP for Respondents.

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CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 09/01/2001

ORAL JUDGEMENT

This petition has been filed against the order dated 9-3-1998 of the respondent no. 1 passed in Appeal No. 18 of 1998 whereby the order dated 13-7-1997 passed by the Deputy Collector, (Stamp Duty Valuation), has been confirmed.

2. The petitioner purchased subplot No. 4 of land bearing S. No.1968 of village Dholaka and the sale deed was executed after paying the full consideration at the rate of Rs. 15/-/- per sq. mtr. The said sale deed was sent for its registration. The father of the petitioner also purchased subplot no. 4 of the same survey number of the same village from the same owner. The said sale deed was executed and registered at the rate of Rs.15/- per sq. mtr. On the same day the document was sent for registration and it was registered at Sr. No. 718 of 1991 and the total consideration was also paid by the father of the petitioner.

3. The respondent no. 2 - Deputy Collector (Stamp Duty Valuation) sent a notice to the petitioner on 29-3-1993 wherein the property of the petitioner was assessed at the market price at the rate of Rs.50/- per sq. mtr. and the market value of the petitioner's property was determined at Rs.2,12,850/- instead of Rs. 63,525/- and the petitioner was directed to pay stamp duty of Rs.16,375/- including the penalty.

4. The learned counsel for the petitioner also pointed out that the similar notice was also issued to the father of the petitioner. But after hearing to the petitioner's father, the Deputy Collector did not find any deficit of stamp duty already paid by the petitioner's father which was assessed and calculated at the rate of Rs. 15/- per sq. mtr. Whereas, in the case of the petitioner the additional stamp duty plus the penalty is required to be paid by the petitioner for registration of his aforesaid sale deed. The petitioner filed an appeal before the respondent no. 1 - Chief Revenue Controlling Authority (Duty), Gujarat State without assigning any sufficient reason has confirmed the order of the respondent no. 1 - the Deputy Collector (Stamp Duty Valuation).

5. The learned counsel for the petitioner pointed out that the order passed by the respondents are illegal, erroneous and discriminatory and are not sustainable in the eye of law. Moreover, the impugned orders are discriminatory in view of the fact that on the same day sale deeds were executed and the stamp duty was paid at the rate of Rs. 15/-/- per sq. mtr. which has been accepted by the respondent no. 2. However, without assigning any cogent reason or cause regarding valuation of the property of the petitioner has been rejected and that order has been confirmed by the respondent no. 2 and therefore the impugned orders are discriminatory and are not sustainable in the eye of law.

6. I have heard learned A.G.P. Mr. I. M. Pandya for the respondents and I have also gone through the relevant papers on record and I come to a conclusion that the impugned orders passed by the respondents no. 1 and 2 are illegal, erroneous and discriminatory and are not sustainable in the eye of law in view of the fact that the orders have been passed in favour of the petitioner's father wherein the valuation of the property was assessed at Rs. 15/-/- per sq. mtr. and that has been accepted by the respondent no. 2. While, on the other hand, the valuation of the petitioner's property has been assessed at Rs.50/- per sq. mtr. instead of Rs. 15/-/- per sq. mtr. without assigning any reason though the land in dispute is of the same survey number and village. Learned counsel for the petitioner pointed out that various documents of the same locality and same survey number of the same village were executed and registered at the rate of Rs. 15/-/- per sq. mtr. and therefore the impugned orders are illegal, erroneous and arbitrary and are not sustainable in the eye of law. As such, the impugned orders are liable to be quashed and set aside.

7. Accordingly, this petition is allowed and the impugned orders dated 30-7-1997 and 9-3-1998 passed by the respondents no. 2 and 1 respectively are hereby quashed and set aside. The respondents authorities concerned are directed to forthwith register the document of sale deed executed by the petitioner pertaining to the subplot no. 4 of survey no. 1968 of village Dholaka without assessing or showing any deficit of stamp duty. Rule is made absolute to the aforesaid extent, with no order as to costs.

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